

AMENDED IN SENATE JUNE 19, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2161

Introduced by Assembly Member Hancock

February 21, 2006

An act to add Sections 16519 and 16519.5 to the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2161, as amended, Hancock. Child welfare services: resource family pilot program.

Existing law requires the placement of dependent children by the juvenile court according to specified procedures. Existing law requires the state, through the State Department of Social Services and county welfare departments, to establish and support a system of statewide child welfare, which includes services related to foster care placement of dependent children and adoption. Existing law provides for the licensure of foster care providers, and the approval of adoptive parents.

This bill would require the State Department of Social Services, in consultation with county welfare agencies, to implement a pilot program to establish a unified resource family approval process to replace the existing multiple processes for licensing foster family homes, approving relatives and nonrelated extended family members as foster care providers, and approving adoptive families, as provided in the bill. The bill would define a resource family for its purposes as

an individual or couple that a participating county has approved to care for a related or unrelated child who is under the jurisdiction of the juvenile court or otherwise in the care of a county child welfare agency.

This bill would require the department to, prior to implementing the pilot program, promulgate standards for home approval and permanency assessment for placing children in a resource family.

This bill would require the pilot program to be conducted in up to 5 counties that volunteer to participate. It would authorize the pilot program to continue through the 2009–10 fiscal year, or for 3 full fiscal years following the receipt of funding for the program, whichever is later.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds, with moneys from the General Fund being continuously appropriated to pay for the state's share of AFDC-FC costs. Existing law requires that a child be in one of 7 designated placements in order to be eligible for AFDC-FC.

This bill also would require a child placed in a resource family home that meets specified standards to be eligible for AFDC-FC. By expanding eligibility standards for AFDC-FC benefits, this bill would make an appropriation. The bill would provide that a resource family be paid a specified AFDC-FC rate, and would apply existing sharing ratios for state financial participation.

This bill would make its implementation contingent upon the continued availability of federal funds for costs associated with the placement of children with resource families as provided in the bill.

The bill would also set forth specified responsibilities for the department and counties participating in the pilot program for implementing and enforcing standards provided in the bill.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 16519 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 16519. The Legislature finds and declares the following:

1 (a) Safety, permanency, and well-being are crucial for the
2 more than 82,000 California children in foster care, and are
3 paramount to achieving both federal and state child welfare
4 system improvement goals. Foster children need safe homes with
5 permanent connections to family or other caring adults. The
6 current licensing and approval system, which screens families to
7 care for foster children, fails to support these outcomes.

8 (b) Children in foster care live in a variety of out-of-home care
9 settings: licensed foster family homes, approved relative and
10 nonrelated extended family member homes, foster family
11 agencies, and group homes. All of these placement types,
12 considered facilities under current law, are required to meet the
13 respective health and safety standards in order to be licensed or
14 approved. This has produced administrative inefficiencies and
15 confusion among stakeholders, and has contributed to difficulty
16 in recruiting suitable foster family homes for children in
17 out-of-home care. Increasing the number of available suitable
18 homes will improve the likelihood that the best home will be
19 initially identified to meet a child's particular needs.

20 (c) Child safety and well-being are not achieved solely by
21 ensuring that the home the child is placed in is free from physical
22 hazards and that adults living in the home do not have
23 disqualifying criminal convictions or past reports of child abuse.
24 Child safety and well-being are also dependent upon
25 consideration of the resource family's psychosocial history that
26 includes physical health, mental health, alcohol and substance
27 abuse, family violence or abuse, and experience caring for
28 children.

29 (d) Research shows that children in out-of-home care placed
30 with relatives and nonrelated extended family members are more
31 stable, more likely to be placed with siblings, and more likely to
32 stay connected to their community and extended family.
33 California statutory and regulatory provisions should maximize
34 the likelihood that a child will initially be placed in the care of a
35 safe relative or nonrelated extended family member who is
36 willing to provide permanent care if reunification cannot be
37 achieved.

38 (e) Families living in the same neighborhood as a family from
39 which a child has been removed are often best suited to provide
40 for the immediate placement needs of that child.

(f) Families who provide care to children in out-of-home placement are a valuable resource to the people of this state and to the children for whom they provide care.

SEC. 2. Section 16519.5 is added to the Welfare and Institutions Code, to read:

16519.5. (a) The State Department of Social Services, in consultation with county child welfare agencies, foster parent associations, and other interested community parties, shall implement a pilot program to establish a unified, family friendly, and child-centered resource family approval process to replace the existing multiple processes for licensing foster family homes, approving relatives and nonrelated extended family members as foster care providers, and approving adoptive families.

(b) Up to five counties shall be selected to participate on a voluntary basis in the pilot program, according to criteria developed by the department in consultation with the County Welfare Directors Association. *In selecting the pilot counties, the department shall promote diversity among the participating counties in terms of size and geographic location.*

(c) (1) For the purposes of this section, “resource family” means an individual or couple that a participating county ~~has approved to~~ *determines to have successfully met both the approval standards and the permanency assessment criteria adopted pursuant to subdivision (d) necessary for providing care* for a related or unrelated child who is under the jurisdiction of the juvenile court, or otherwise in the care of a county child welfare agency. A resource family shall demonstrate all of the following:

(A) An understanding of the safety, permanence, and well-being needs of children who have been victims of child abuse and neglect, and the capacity and willingness to meet those needs, including the need for protection, and the willingness to make use of support resources offered by the agency, or a support structure in place, or both.

(B) An understanding of children’s needs and development, effective parenting skills or knowledge about parenting, and the capacity to act as a prudent parent in routine decisionmaking.

(C) An understanding of his or her role as a resource family and the capacity to work cooperatively with the agency in implementing the child’s case plan.

1 (D) The financial ability within the household to ensure the
2 stability and financial security of the family.

3 (2) Subsequent to ~~approval, meeting the criteria set forth in~~
4 ~~subdivision (a) and designation as a resource family~~, a resource
5 family shall be considered eligible to provide foster care for
6 related and unrelated children in out-of-home placement, shall be
7 considered approved ~~as an adoptive family for adoption or~~
8 ~~guardianship~~, and shall not have to undergo any additional
9 approval or licensure as long as the family lives in a county
10 participating in the pilot program.

11 (3) Resource family assessment and approval means that the
12 applicant meets the standard for home approval, and has
13 successfully completed a permanency assessment. This approval
14 is in lieu of the existing foster care license, relative or nonrelated
15 extended family member approval, and the adoption home study
16 approval.

17 (4) Approval of a resource family does not guarantee an initial
18 or continued placement of a child with a resource family.

19 (d) Prior to implementation of this pilot program, the
20 department shall adopt standards pertaining to home approval
21 and permanency assessment of a resource family.

22 (1) Resource family home approval standards shall include,
23 but not be limited to, all of the following:

24 (A) (i) Criminal records clearance of all adults residing in the
25 home, pursuant to Section 8712 of the Family Code, utilizing the
26 ~~California Law Enforcement Telecommunications System~~
27 ~~(CLETS)~~; a check of the Child Abuse Central Index (CACI), a
28 check of the Child Welfare Services Case Management System
29 (CWS/CMS), and receipt of LiveScan, unless an exemption is
30 granted.

31 (ii) Consideration of any prior allegations of child abuse or
32 neglect against either the applicant or any other adult residing in
33 the home. An approval may not be granted to applicants whose
34 criminal record indicates a conviction for any of the offenses
35 specified in clause (i) of subparagraph (A) of paragraph (1) of
36 subdivision (g) of Section 1522 of the Health and Safety Code.

37 (iii) Exemptions from the criminal records clearance
38 requirements set forth in this section may be granted by the
39 director using the exemption criteria currently used for foster

1 care licensing as specified in subdivision (g) of Section 1522 of
2 the Health and Safety Code.

3 (B) Buildings and grounds, outdoor activity space, and storage
4 requirements set forth in Sections 89387, 89387.1, and 89387.2
5 of Title 22 of the California Code of Regulations.

6 (C) In addition to the foregoing requirements, the resource
7 family home approval standards shall also require the following:

8 (i) That the applicant demonstrate an understanding about the
9 rights of children in care and his or her responsibility to
10 safeguard those rights.

11 (ii) That the total number of children residing in the home of a
12 resource family shall be no more than the total number of
13 children the resource family can properly care for, regardless of
14 status, and shall not exceed six children, unless exceptional
15 circumstances that are documented in the foster child's case file
16 exist to permit a resource family to care for more children,
17 including but not limited to, the need to place siblings together.

18 (D) The results of a caregiver risk assessment are consistent
19 with the factors listed in subparagraphs (A) to ~~(C)~~, *inclusive (D)*,
20 *inclusive, of paragraph (1) of subdivision (c)*. A caregiver risk
21 assessment shall include, but not be limited to, physical and
22 mental health, alcohol and other substance use and abuse, and
23 family and domestic violence.

24 (2) The resource family permanency assessment standards
25 shall include, but not be limited to, all of the following:

26 ~~(A) The applicant shall complete caregiver training, a~~
27 ~~psychosocial evaluation, and any other activities that relate to a~~
28 ~~resource family's ability to achieve permanency with the child.~~

29 ~~(B) The permanency assessment shall be completed within 90~~
30 ~~days of the child's placement in the approved home, unless good~~
31 ~~cause exists based on the unique circumstances of the family.~~

32 *(A) The applicant shall complete caregiver training.*

33 *(B) The applicant shall complete a psychological evaluation.*

34 *(C) The applicant shall complete any other activities that*
35 *relate to a resource family's ability to achieve permanency with*
36 *the child.*

37 ~~(3) (A)~~

38 *(e) (1)* A child may be placed with a resource family that has
39 received home approval prior to completion of a permanency

1 assessment only if a compelling reason for the placement exists
2 based on the needs of the child.

3 (2) *The permanency assessment shall be completed within 90*
4 *days of the child's placement in the approved home, unless good*
5 *cause exists based upon the needs of the child.*

6 ~~(B)~~

7 (3) If additional time is needed to complete the permanency
8 assessment, the county shall document the extenuating
9 circumstances for the delay and generate a timeframe for the
10 completion of the permanency assessment.

11 ~~(C)~~

12 (4) The county shall report to the department on a quarterly
13 basis the number of families *with a child in an approved home*
14 whose permanency assessment goes beyond 90 days and
15 summarize the reasons for these delays.

16 ~~(4)~~

17 (5) A child may be placed with a relative, *as defined in Section*
18 *319*, or nonrelated extended family member, *as defined in*
19 *Section 362.7*, prior to home approval and completion of the
20 permanency assessment only on an emergency basis if all of the
21 following requirements are met:

22 (A) (i) ~~Criminal records clearance of all adults residing in the~~
23 ~~home, pursuant to Section 8712 of the Family Code, utilizing the~~
24 ~~California Law Enforcement Telecommunications System~~
25 ~~(CLETS), a check of the Child Abuse Central Index (CACI), a~~
26 ~~check of the Child Welfare Services Case Management System~~
27 ~~(CWS/CMS), unless an exemption is granted pursuant to~~
28 ~~subdivision (g) of Section 1522 of the Health and Safety Code.~~

29 (ii) ~~Within 10 judicial days following the criminal records~~
30 ~~check conducted through CLETS, the social worker shall ensure~~
31 ~~that a fingerprint clearance check of the relative, and any other~~
32 ~~person whose criminal record was obtained pursuant to this~~
33 ~~subdivision, is initiated through the Department of Justice to~~
34 ~~ensure the accuracy of the criminal records check conducted, and~~
35 ~~shall review the results of any criminal records check conducted~~
36 ~~pursuant to this subdivision to assess the safety of the home.~~

37 (iii) ~~The Department of Justice shall forward fingerprint~~
38 ~~requests for federal level criminal history information to the~~
39 ~~Federal Bureau of Investigation pursuant to this section.~~

1 (A) *Consideration of the results of a criminal records check*
2 *conducted pursuant to Section 16504.5 of the relative or*
3 *nonrelative extended family member and of every other adult in*
4 *the home.*

5 (B) *Consideration of the results of the Child Abuse Central*
6 *Index (CACI) consistent with Section 1522.1 of the Health and*
7 *Safety Code of the relative or nonrelative extended family*
8 *member, and of every other adult in the home.*

9 ~~(B)~~

10 (C) The home and grounds are free of conditions that pose
11 undue risk to the health and safety of the child.

12 ~~(C)~~

13 (D) For any placement made pursuant to this paragraph, the
14 county shall initiate the home approval process no later than five
15 business days after the placement, which shall include a
16 face-to-face interview with the resource family applicant and
17 child.

18 ~~(D)~~

19 (E) For any placement made pursuant to this paragraph,
20 AFDC-FC funding shall not be available until the home has been
21 approved.

22 (F) *Any child placed under this section shall be afforded all*
23 *the rights set forth in Section 16001.9.*

24 ~~(e)~~

25 (f) The State Department of Social Services shall be
26 responsible for all of the following:

27 (1) Selecting pilot counties, based on criteria established by
28 the department in consultation with the County Welfare Directors
29 Association.

30 (2) Establishing timeframes for participating counties to
31 submit an implementation plan, enter into terms and conditions
32 for participation in the pilot program, train appropriate staff, and
33 accept applications from resource families.

34 (3) Entering into terms and conditions for participation in the
35 pilot by counties.

36 (4) Administering the pilot through the issuance of written
37 directives that shall have the same force and effect as regulations.
38 The directives shall be exempt from the rulemaking provisions of
39 the Administrative Procedure Act (Chapter 3.5 (commencing

1 with Section 11340)) of Part 1 of Division 3 of Title 2 of the
2 Government Code.

3 (5) Approving and requiring the use of a single standard for
4 resource family home approval and permanency assessment.

5 (6) Adopting and requiring the use of standardized
6 documentation for the home approval and permanency
7 assessment of resource families.

8 (7) Requiring counties to monitor resource families including,
9 but not limited to, all of the following:

10 (A) Investigating complaints of resource families.

11 (B) Developing and monitoring resource family corrective
12 action plans to correct identified deficiencies and to rescind
13 resource family approval if compliance with corrective action
14 plans is not achieved.

15 (8) Ongoing oversight and monitoring of county systems and
16 operations including all of the following:

17 (A) Reviewing the county's implementation of the pilot
18 program.

19 (B) Reviewing an adequate number of approved resource
20 families in each participating county to ensure that approval
21 standards are being properly applied. The review shall include
22 case file documentation, and may include onsite inspection of
23 individual resource families. The review shall occur on an annual
24 basis, and more frequently if the department becomes aware that
25 a participating county is experiencing a disproportionate number
26 of complaints against individual resource family homes.

27 (C) Reviewing county reports of serious complaints and
28 incidents involving approved resource families, as determined
29 necessary by the department. The department may conduct an
30 independent review of the complaint or incident and change the
31 findings depending on the results of its investigation.

32 (D) Investigating unresolved complaints against participating
33 counties.

34 (E) Requiring corrective action of counties that are not in full
35 compliance with the terms and conditions of the pilot program.

36 (9) Terminating the participation of any county that fails to
37 make corrective action or who otherwise violates the terms and
38 conditions of participation in the pilot.

(10) Preparing or having prepared within 180 days after the conclusion of the pilot a report on the results of the pilot. The report shall include all of the following:

(A) An analysis, utilizing available data, of state and federal data indicators related to the length of time to permanency including reunification, guardianship and adoption, child safety factors, and placement stability.

(B) An analysis of resource family recruitment and retention elements, including resource family satisfaction with approval processes and changes regarding the population of available resource families.

(C) An analysis of cost, utilizing available data, including funding sources.

(D) An analysis of regulatory or statutory barriers to implementing the pilot program on a statewide basis.

~~(F)~~

(g) Counties participating in the pilot shall be responsible for all of the following:

(1) Submitting an implementation plan, entering into terms and conditions for participation in the pilot, training appropriate staff, and accepting applications from resource families within the timeframes established by the department.

(2) Complying with the written directives pursuant to paragraph (4) of subdivision (e).

(3) Implementing the requirements for resource family home approval and permanency assessment and utilizing standardized documentation established by the department.

(4) Ensuring staff have the education and experience necessary to complete the home approval and permanency assessment competently.

(5) Approving and denying resource family applications, including all of the following:

(A) Rescinding home approvals and resource family approvals where appropriate, consistent with the established standard.

(B) Providing disapproved resource families requesting review of that decision due process by conducting county grievance reviews pursuant to the department's regulations.

(C) Notifying the department of any decisions denying a resource family's application or rescinding the approval of a resource family.

1 (6) Updating resource family approval annually.

2 (7) Monitoring resource families through all of the following:

3 (A) Ensuring that social workers who identify a condition in
4 the home that may not meet the approval standards set forth in
5 subdivision (d) while in the course of a routine visit to children
6 placed with a resource family take appropriate action as needed.

7 (B) Requiring resource families to comply with corrective
8 action plans as necessary to correct identified deficiencies. If
9 corrective action is not completed as specified in the plan, the
10 county may rescind the resource family approval.

11 (C) Requiring resource families to report to the county child
12 welfare agency any incidents consistent with the reporting
13 requirements for licensed foster family homes.

14 (8) Investigating all complaints against a resource family and
15 taking action as necessary. This shall include investigating any
16 incidents reported about a resource family indicating that the
17 approval standard is not being maintained.

18 (A) The child's social worker shall not conduct the formal
19 investigation into the complaint received concerning—~~the~~
20 ~~approved or pending resource family~~ *a family providing services*
21 *under the standards required by subdivision (d).* To the extent
22 that adequate resources are available, complaints shall be
23 investigated by ~~the nonapproving social worker~~ *a worker who*
24 *did not initially perform the home approval or permanency*
25 *assessment.*

26 (B) Upon conclusion of the complaint investigation, the final
27 disposition shall be reviewed and approved by a supervising staff
28 member.

29 (C) The department shall be notified of any serious incidents
30 or serious complaints or any incident that falls within the
31 definition of Section 11165.5 of the Penal Code. If those
32 incidents or complaints result in an investigation, the department
33 shall also be notified as to the status and disposition of that
34 investigation.

35 (9) Performing corrective action as required by the
36 department.

37 (10) Assessing county performance in related areas of the
38 California Child and Family Services Review, and remedying
39 problems identified.

1 (11) Submitting information and data that the department
2 determines is necessary to study, monitor, and prepare the report
3 specified in paragraph (10) of subdivision (e).

4 ~~(g)~~

5 (h) (1) The Department of Justice shall deem criminal records
6 information requests made by counties or the department for
7 applicant and approved resource families as criminal records
8 information requests for prospective adoptive families, including
9 requests for subsequent arrest notification.

10 (2) When a resource family moves to another county, the
11 Department of Justice shall provide the new county of residence
12 subsequent arrest notification for that resource family.

13 ~~(h)~~

14 (i) Approved relatives and nonrelated extended family
15 members, licensed foster family homes, or approved adoptive
16 homes that have completed the license or approval process prior
17 to full implementation of the pilot program shall not be
18 considered part of the pilot program. The otherwise applicable
19 assessment and oversight processes shall continue to be
20 administered for families and facilities not included in the pilot
21 program.

22 ~~(i)~~

23 (j) Upon completion of the pilot program, the status of the
24 resource family's approval shall continue in full force and effect,
25 and the resource family shall be deemed approved for licensing,
26 relative and nonrelated extended family member approval,
27 *guardianship*, and adoption purposes.

28 ~~(j)~~

29 (k) The department may waive regulations that pose a barrier
30 to implementation and operation of this pilot program. *The*
31 *waiver of any regulations waived by the department pursuant to*
32 *this section shall apply to only those counties participating in the*
33 *pilot program and only for the duration of the pilot program.*

34 ~~(k)~~

35 (l) Resource families approved under this pilot program, who
36 move within a participating county or who move to another pilot
37 program county, shall retain the status as a resource family if the
38 new building and grounds, outdoor activity areas, and storage
39 areas meet home approval standards.

40 ~~(l)~~

1 (m) A resource family approved under this pilot program and
2 who moves to a nonparticipating pilot program county shall lose
3 the status as a resource family. The new county of residence shall
4 deem this family approved for licensing, relative and nonrelated
5 extended family member approval, *guardianship*, and adoption
6 purposes, if the new building and grounds, outdoor activity areas,
7 and storage areas meet applicable standards.

8 ~~(m)~~

9 (n) Implementation of the pilot program shall be contingent
10 upon the continued availability of federal Social Security Act
11 Title IV-E (42 U.S.C. Sec. 670) funds for costs associated with
12 placement of children with resource families assessed and
13 approved under the program.

14 ~~(n)~~

15 (o) Notwithstanding Section 11402, a child placed with a
16 resource family shall be eligible for AFDC-FC payments. A
17 resource family shall be paid an AFDC-FC rate pursuant to
18 Sections 11460 and 11461. Sharing ratios for nonfederal
19 expenditures for all costs associated with activities related to the
20 approval of relatives and nonrelated extended family members
21 shall be in accordance with Section 10101.

22 ~~(o)~~

23 (p) Neither the Department of Justice nor the State Department
24 of Social Services may charge any additional fee for the criminal
25 records clearance required pursuant to this section.

26 ~~(p)~~

27 (q) Approved resource families under this pilot program shall
28 be exempt from all of the following:

29 (1) Licensure requirements set forth under the Community
30 Care Facilities Act, commencing with Section 1500 of the of the
31 Health and Safety Code and all regulations promulgated thereto.

32 (2) Relative and nonrelated extended family member approval
33 requirements set forth under Sections 309, 361.4, and 362.7, and
34 all regulations promulgated thereto.

35 (3) Adoptions approval and reporting requirements set forth
36 under ~~Sections 8712 and 8715~~ *Section 8712* of the Family Code,
37 and all regulations promulgated thereto.

38 ~~(q)~~

39 (r) The pilot program shall be authorized to continue through
40 the end of the 2009–10 fiscal year, or through the end of the third

- 1 full fiscal year following the date that funds are made available
- 2 for its implementation, whichever of these dates is later.